

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-sixth Legislature  
Second Regular Session  
2004

**CHAPTER 158**

## **SENATE BILL 1269**

AN ACT

AMENDING SECTION 39-121.01, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 39-121.01, Arizona Revised Statutes, is amended to read:

39-121.01. Definitions; maintenance of records; copies, printouts or photographs of public records; examination by mail; index

A. In this article, unless the context otherwise requires:

1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.

2. "Public body" means the state, any county, city, town, school district, political subdivision or tax-supported district in the state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from the state or any political subdivision of the state, or expending monies provided by the state or any political subdivision of the state.

B. All officers and public bodies shall maintain all records, including records as defined in section 41-1350, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from the state or any political subdivision of the state.

C. Each public body shall be responsible for the preservation, maintenance and care of that body's public records and each officer shall be responsible for the preservation, maintenance and care of that officer's public records. It shall be the duty of each such body to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction, unless disposed of pursuant to sections 41-1347 and 41-1351.

D. Subject to section 39-121.03:

1. Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours or may request that the custodian mail a copy of any public record not otherwise available on the public body's web site to the requesting person. The custodian may require any person requesting that the custodian mail a copy of any public record to pay in advance for any copying and postage charges. The custodian of such records shall promptly furnish such copies, printouts or photographs and may charge a fee if the facilities are available, except that public records for purposes listed in section 39-122 shall be furnished without charge.

2. IF REQUESTED, THE CUSTODIAN OF THE RECORDS OF AN AGENCY SHALL ALSO FURNISH AN INDEX OF RECORDS OR CATEGORIES OF RECORDS THAT HAVE BEEN WITHHELD AND THE REASONS THE RECORDS OR CATEGORIES OF RECORDS HAVE BEEN WITHHELD FROM THE REQUESTING PERSON. THE CUSTODIAN SHALL NOT INCLUDE IN THE INDEX INFORMATION THAT IS EXPRESSLY MADE PRIVILEGED OR CONFIDENTIAL IN STATUTE OR A COURT ORDER. THIS PARAGRAPH SHALL NOT BE CONSTRUED BY AN ADMINISTRATIVE

1 TRIBUNAL OR A COURT OF COMPETENT JURISDICTION TO PREVENT OR REQUIRE AN ORDER  
2 COMPELLING A PUBLIC BODY OTHER THAN AN AGENCY TO FURNISH AN INDEX. FOR THE  
3 PURPOSES OF THIS PARAGRAPH, AGENCY HAS THE SAME MEANING PRESCRIBED IN SECTION  
4 41-1001, BUT DOES NOT INCLUDE THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT  
5 OF TRANSPORTATION MOTOR VEHICLE DIVISION, THE DEPARTMENT OF JUVENILE  
6 CORRECTIONS AND THE DEPARTMENT OF CORRECTIONS.

7 2. 3. If the custodian of a public record does not have facilities  
8 for making copies, printouts or photographs of a public record which a person  
9 has a right to inspect, such person shall be granted access to the public  
10 record for the purpose of making copies, printouts or photographs. The  
11 copies, printouts or photographs shall be made while the public record is in  
12 the possession, custody and control of the custodian of the public record and  
13 shall be subject to the supervision of such custodian.

14 E. Access to a public record is deemed denied if a custodian fails to  
15 promptly respond to a request for production of a public record OR FAILS TO  
16 PROVIDE TO THE REQUESTING PERSON AN INDEX OF ANY RECORD OR CATEGORIES OF  
17 RECORDS THAT ARE WITHHELD FROM PRODUCTION PURSUANT TO SUBSECTION D, PARAGRAPH  
18 2 OF THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.